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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

Division
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Date of Transmission
SECRETARIAT
GOVERNMENT OF

LOK SABHA

The following Bills were introduced in Lok Sabha on the 31st July, 1970:—

BILL No. 55 OF 1970

A Bill to provide for legal assistance in certain cases of civil proceedings to citizens without adequate means.

BE it enacted by Parliament in the Twenty-first year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Civil Proceedings Legal Assistance Act, 1970.

(*2*) It shall progressively come into force within a period of nine years from the date of its enactment, in the manner specified in sub-section (*3*).

(*3*) The Central Government and the State Governments shall, by notification in the respective Official Gazettes, progressively enforce the provisions of this Act in one-third of the administrative units or districts within their jurisdiction in the Union territories and States respectively, every three years, so that by the end of the nine-year period the Act shall become applicable throughout the territory of India.

Right of a person having annual income of Rs. 1800 or less to legal assistance in civil proceedings.

2. Notwithstanding anything contained in any law for the time being in force in the territory of India any person, who wishes to start a civil proceeding or to be made a party to such a civil proceeding, shall have a right to be represented by a legal counsel in the case, subject to the following conditions, namely:—

(a) his annual income from all sources is one thousand and eight hundred rupees or less; and

(b) his case is recommended by a Screening Committee of Legal Counsel, to be set up under this Act, as a fit and proper case for giving and receiving free legal assistance.

Setting up of Screening Committees in Districts.

3. There shall be set up in each district a Screening Committee consisting of not more than three senior legal counsel practising in the said district.

Setting up of State Screening Committees.

4. There shall be set up a State Screening Committee in each State consisting of senior legal counsel of the High Court to process and recommend applications for legal assistance of persons desiring to start legal proceedings or of those who are a party to the civil proceeding started by others in the High Court concerned.

Setting up of Central Screening Committee.

5. There shall be set up a Central Screening Committee of senior legal counsel of the Supreme Court to process and recommend applications for legal assistance of persons similarly placed.

Duties of the Screening Committees.

6. It shall be the duty of these Screening Committees to process applications for free legal assistance in civil proceedings and recommend such cases to the appropriate court falling within their territorial jurisdiction.

Council to be appointed by the Court.

7. The legal counsel in cases recommended by the Screening Committees shall be appointed by the court hearing the case.

Fees to be fixed by the Court.

8. The fee of the legal counsel, so appointed, shall be fixed by the court concerned.

Fees to be paid by Government.

9. The fee so fixed shall be paid by the Central or State Government, as the case may be, within a period of three months of the delivery of the judgment in the case.

Power to make rules.

10. (1) The State or Central Government, as the case may be, shall frame rules for the appropriate Screening Committees in consultation with the Chief Justice of the High Court or Supreme Court respectively, for processing the applications and making recommendations for legal assistance.

(2) **These rules may provide for fees to be paid by the Government concerned to the members of the Screening Committees not exceeding twenty-five, fifty and hundred rupees for meetings of the District, State and Central Screening Committees, respectively.**

STATEMENT OF OBJECTS AND REASONS

No matter how extensive the freedoms conferred by the Constitution and the law, they are of little value unless the citizen can have free access to the courts in order to have them defended there. One of the great triumphs of civilized societies has been their development of a system of legal aid for which both, the Government and the legal profession, take credit. A Committee of Lawyers investigates, in some of these countries, the merits of litigants who are contemplating civil proceedings and decides whether the cause has merit before issuing a legal aid certificate. A means test is applied in a precise manner to determine the amount of legal aid. The system has worked well and has accordingly increased the accessibility of justice.

In a country like ours which follows the practices evolved by the British courts in respect of costs in civil proceedings, it is necessary for us to evolve some system of legal aid in civil proceeding. In the United States the poor litigant who is, say, the victim of a car accident will usually employ a lawyer on the promise that he pays nothing if the action fails and that he hands over to the lawyer an agreed percentage of the damages, say, a third, if the action succeeds.

In Britain and in India, the loser pays the winner's costs as well as his own. Without legal aid the private person in this kind of legal system is unfavourably placed, especially, when his opponent is a public body or a commercial or trade organisation. He is often deterred from embarking on any litigation at all.

This Bill proposes to make a beginning in the matter of establishing a system of legal aid in civil proceedings.

NEW DELHI;
The 28th March, 1970.

MADHU LIMAYE

FINANCIAL MEMORANDUM

Clauses 3, 4 and 5 provide for setting up of District, State and Central Screening Committees. Clauses 9 and 10 provide for payment of fee by the Central or State Governments, as the case may be, to the legal counsel and to the members of the Screening Committees for attending meetings of these Committees.

The enforcement of the Act shall be extended progressively in three stages. During the first three years of the operation of the Act, the annual expenditure from the Consolidated Fund of India will be about one lakh rupees. During the next three years, the expenditure will be about two lakh rupees, and when the Act comes into operation throughout the territory of India, the expenditure from the Consolidated Fund of India will be about four lakh rupees annually.

A non-recurring expenditure of about fifty thousand rupees is likely to be involved on this account.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 provides for the framing of rules for the transaction of business by and for fees to be paid to the members of the Screening Committees. The delegation of power is of a normal character and wholly within the four corners of the Constitution.

BILL No. 60 OF 1970

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1970.

(*2*) It shall come into force at once.

Substitution of section 11.

43 of 1951.

2. For section 11 of the Representation of the People Act, 1951, the following section shall be substituted, namely:—

"11. The disqualification under this Chapter may be removed in fit and proper cases by the Supreme Court if it is imposed or confirmed by the Supreme Court and by the High Court if it is imposed by the High Court on an application being made by the person so disqualified to the Court concerned within three months of the imposition or confirmation of this disqualification."

STATEMENT OF OBJECTS AND REASONS

It is one of the curious features of our election law that the Election Commission is empowered to remove disqualification imposed or confirmed on a candidate by courts of such eminence as a High Court or the Supreme Court.

Article 141 says that the law declared by the Supreme Court shall be binding, and article 144 of the Constitution declares that all authorities shall act in aid of the Supreme Court. However, section 11 of the Representation of the People Act, 1951 empowers the Election Commission to set at naught even the decisions of the highest tribunal of the land.

This is not only destructive of the people's faith in the supremacy of the Rule of Law but also creates the possibility of the Government and the Ruling Party influencing the Election Commission in favour of its own members.

It is possible that in some cases there may be miscarriage of justice and so the court may be given power to reconsider such cases and remove the disqualification.

This power will be somewhat *distinct* from the court's constitutional and inherent power to review their own decisions.

This will remove the possibility of undue political pressure being brought on the Election Commission as also the reversing of judicial decisions of the highest courts by an extra-judicial authority.

MADHU LIMAYE.

NEW DELHI;
The 4th April, 1970.

BILL No. 58 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1970. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 137 of the Constitution, the following new article shall Insertion of new article 137A.

be inserted, namely:—

General power of transfer and withdrawal of cases.

"137A. (*1*) Notwithstanding anything contained in this Chapter, Supreme Court may, in its discretion on an application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, at any stage, withdraw any suit, appeal, writ or other proceedings pending before a particular Judge or Judges of a High Court and transfer the same to any other Judge or Judges of the same High Court or to any other High Court in the territory of India.

(*2*) Where any suit or proceeding has been transferred or withdrawn under clause (*1*), the Court which thereafter tries such suit or proceedings may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(*3*) For the purpose of this article, the Courts of single Judges and Division Courts of the High Court shall be deemed to be subordinate to the Supreme Court."

STATEMENT OF OBJECTS AND REASONS

Our judicial system is based on the well known maxim that "Justice must not only be done but must appear to have been done". This maxim lays down a rule of conduct for the Judges that whenever there is a reasonable apprehension in the mind of a litigant that he would not get justice from a particular Judge then in that event the principles of natural justice demand that the particular Judge should not decide a particular matter. Even the Supreme Court (in A.I.R. 1965 Supreme Court 1303) has made a pointed reference to this elementary Rule of natural justice. As the Law stands at present, general powers of transfer and withdrawal of proceedings pending in the District Courts vest in the High Court (*vide* Section 24 of the Code of Civil Procedure, 1908). But strangely enough no such provision exists for Judges of the High Court. No specific provisions exist for enabling the aggrieved parties to seek withdrawal and transfer of proceedings pending before High Court Judges even when sound and reasonable apprehension exists for the same.

It is, therefore, necessary that such a provision be made and power should be conferred upon the Supreme Court to transfer and withdraw proceedings pending before a Judge or Judges of High Court to any other Judge of the same High Court or to any other High Court. Such a provision would be fair to the Judges and to the litigants, thereby ensuring and strengthening judicial independence which is absolutely necessary for enforcing the Rule of Law.

Hence this Bill.

OM PRAKASH TYAGI

NEW DELHI;

The 24th April, 1970.

BILL NO. 75 OF 1970

A Bill to provide for the abolition of the Legislative Council of the State of Bihar and for matters supplemental, incidental and consequential thereto.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Bihar Legislative Council (Abolition) Act, 1970.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means, as respects a law relating to a matter enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the State Government;

(b) "article" means an article of the Constitution;

(c) "Council" means the Legislative Council of the State of Bihar;

(*d*) "law" includes any enactment, Ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law in the whole or any part of the State of Bihar;

(*e*) "Legislative Assembly" means the Legislative Assembly of the State of Bihar.

Abolition of the Council.

3. (*1*) The Legislative Council of the State of Bihar is hereby abolished.

(*2*) On the abolition of the Council, every member thereof shall cease to be such member.

Amendment of article 168.

4. In sub-clause (*a*) of clause (I) of article 168, the word "Bihar" shall be omitted.

Amendment of Act 43 of 1950.

5. In the Representation of the People Act, 1950,— 43 of 1950.

(*a*) in the Third Schedule, entry No. 2 relating to Bihar shall be omitted;

(*b*) In the Fourth Schedule, the heading "Bihar" and the entries thereunder shall be omitted.

Repeal of Delimitation of Council Constituencies (Bihar) Order, 1951.

6. The Delimitation of Council Constituencies (Bihar) Order, 1951, is hereby repealed.

Provision as to pending Bills.

7. (*1*) A Bill pending in the Council immediately before the commencement of this Act which has not been passed by the Legislative Assembly shall lapse on the abolition of the Council.

(*2*) A Bill pending in the Council immediately before the commencement of this Act which has been passed by the Legislative Assembly shall not lapse on the abolition of the Council, but on such abolition shall be deemed to have been passed before such commencement by both Houses of the Legislature of the State of Bihar in the form in which it was passed by the Legislative Assembly.

(*3*) If a Bill which having been passed by the Legislative Assembly is, before the commencement of this Act, either rejected by the Council or passed by the Council with amendments, the Legislative Assembly may, after such commencement, pass the Bill again with or without such amendments, if any, as have been made by the Council and the Bill so passed shall be deemed to be a Bill introduced in and passed by the Legislative Assembly after the commencement of this Act.

Power to adapt laws.

8. The appropriate Government may, before the expiration of one year from the commencement of this Act, by order, make such adaptations and modifications of any law made before such commencement, whether by way of repeal or amendment as may be necessary or expedient in consequence of the abolition of the Council under section 3, and thereupon every such law shall have effect subject to the adaptations and modifications so made.

Power to construe laws.

9. Notwithstanding that no provision or insufficient provision has been made under section 8 for the adaptation or modification of a law made before the commencement of this Act, any court, tribunal or authority required or empowered to enforce such law may construe the law in such manner, without affecting the substance, as may be necessary or proper on account of the abolition of the Council, in regard to the matter before the court, tribunal or authority.

STATEMENT OF OBJECTS AND REASONS

The Legislative Assembly of Bihar passed a resolution at its meeting on 3rd April, 1970 recommending the abolition of the Legislative Council of the State. This Bill seeks to give effect to this resolution as provided in Article 169 of the Constitution.

NEW DELHI;

The 25th April, 1970.

BHOGENDRA JHA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make such adaptations and modifications of any law made before the commencement of the Act as may be necessary or expedient in consequence of the abolition of the Legislative Council of the State of Bihar under clause 3. This power will be available only for a period of one year from the commencement of the Act. The adaptations and modifications cannot affect the substance of the laws adapted.

The delegation of legislative power is of a normal character.

BILL No. 56 OF 1970

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Code of Civil Procedure (Amendment) Act, 1970

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Order XLI.

5 of 1908.

2. In the First Schedule to the Code of Civil Procedure, 1908, in Order XLI, in sub-rule (1) of rule 1, for the words and brackets "The memorandum shall be accompanied by a copy of the decree appealed from and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded.", the words and brackets "The memorandum shall be accompanied by a copy of the decree appealed from and of the judgment (unless the Appellate Court dispenses with them) on which it is founded." shall be substituted.

STATEMENT OF OBJECTS AND REASONS

As the law stands at present the appellate court has no power to dispense with a copy of the decree to be accompanied with the memorandum of appeal though it can dispense with the copy of the judgment. This is the settled decision of the Supreme Court in Jagat Dhish Vs. Jawahar Lal 1961 S.C. 832. It is, however, practically difficult and sometimes impossible to obtain a certified copy of the decree and an appellant is seriously handicapped on account of the mandatory provisions contained in Rule 1 of Order XLI of C.P.C. If the appellate court can dispense with the copy of the judgment, then there appears to be no justification in not conferring power upon the appellate court to dispense with the copy of the decree. With this object in view the present amendment is desirable and the appellate court should be given the power to dispense with the copy of the decree as well.

Hence this Bill.

NEW DELHI;
The 28th April, 1970.

OM PRAKASH TYAGI

BILL NO. 67 OF 1970

A Bill further to amend the Salaries and Allowances of Members of Parliament Act, 1954.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Salaries and Allowances of Members of Parliament (Amendment) Act, 1970. Short title.

30 of 1954. 2. After section 8 of the Salaries and Allowances of Members of Parliament Act, 1954, the following new section shall be inserted, namely:— Insertion of new section 8A.

"8A. A member shall, on ceasing to be a member of either House of Parliament,— Pension and free transit by Railway after ceasing to be a member.

(i) be entitled to receive a pension at the rate of three hundred rupees per mensum;

(ii) be provided with one free non-transferable first class pass which shall entitle him to travel at any time by any railway in India upto the maximum limit of ten thousand kilometres per year.".

STATEMENT OF OBJECTS AND REASONS

After serving the cause of the Nation in their capacity as Members of Parliament, some of the Members, on ceasing to be Members of Parliament are left stranded in life as it is too late for them to adopt any vocation at that late stage. The purpose of this Bill is to instil in the Members a sense of security by ensuring a pension for them after they ceased to be Members of Parliament. Furthermore, this provision regarding pension will be an incentive to attract good talent from all walks of life to Parliament. It is also proposed to give them a minor travel facility.

NEW DELHI; PANNA LAL BARUPAL.

Dated the 28th April, 1970.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide for payment of pension and certain travelling facilities to members on their ceasing to be Members of Parliament. The amount of recurring expenditure on this account is likely to be in the neighbourhood of rupees fifteen lakhs annually. The Bill will not involve any non-recurring expenditure.

BILL No. 59 of 1970.

A Bill to amend the Judges (Inquiry) Act, 1968

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Judges (Inquiry) Amendment Act, 1970.

(*2*) It shall come into force at once.

Amendment of section 3.

2. In section 3 of the Judges (Inquiry) Act, 1968 (hereinafter referred to as the principal Act), for sub-section (*3*), the following sub-section shall be substituted, namely:— 51 of 1968.

"(*3*) The Committee shall state the points of complaint on the basis of which the investigation is proposed to be held."

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*2*), for the words "on each of the charges separately with such observations on the whole case as it thinks fit", the words "of facts on each of the points in the complaint on which the investigation was made", shall be substituted.

Amendment of section 6.

4. In section 6 of the principal Act, for sub-sections (*1*) and (*2*), the following sub-section shall be substituted, namely:—

"(*1*) On the presentation of the report to the House, the Speaker or the Chairman, as the case may be, shall fix a date for its consideration with 10 clear days' notice.".

STATEMENT OF OBJECTS AND REASONS

Article 124(4) of the Constitution prescribes the procedure for removing a Judge of the Supreme Court from the Office. Likewise, article 217(1)(b) provides for the removal of a High Court Judge from the Office, the procedure being the same as in article 124(4) for the removal of a Judge of the Supreme Court. Article 124(5), however, vests power in Parliament to regulate by law the procedure for presentation of an address to the President.

In pursuance of that power, the Judges (Inquiry) Act, 1968 was passed. In this Act it was provided that where a motion for presenting an address to the President praying for the removal of a Judge is given notice of, the Speaker of Lok Sabha or the Chairman of Rajya Sabha as the case may be, shall keep the motion pending and constitute a Committee for investigation into the grounds on which the removal of the Judge is prayed for; and, later, it is provided that if the report of the Committee contains a finding that the Judge is not guilty of any misbehaviour or does not suffer from any incapacity, no further steps shall be taken in relation to the report in either House of Parliament. It is clear from the above provisions that the Judges (Inquiry) Act, 1968 bypasses Parliament completely in such a case. The intention of the Constitution surely is not to keep Parliament out of the picture and any Committee constituted by the Speaker or the Chairman can be only a fact-finding Committee and Lok Sabha or Rajya Sabha or both, as the case may be, should be enabled to know the report and also consider it on the floor of the House. It may be that the House may come to the conclusion that the complaints against the Judges are baseless. The House must come to that conclusion and any statement of finding by a Committee can only be for the purpose of aiding Parliament to come to a decision and not to bypass it altogether. The present Bill is intended to remove the above defect in the provisions of the Judges (Inquiry) Act, 1968.

NEW DELHI; TENNETI VISWANATHAM.

The 29th April, 1970.

BILL No. 61 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. Article 314 of the Constitution shall be omitted. Omission of article 314.

STATEMENT OF OBJECTS AND REASONS

In a society wedded to the democratic ideals of equality and social justice, special privileges and vested rights, no matter whether of ex-rulers, bureaucrats, capitalists or Ministers have no place. The guarantees given in article 314 were as much the product of the essential conservatism of the then dominant leadership of the national movement as of the political compulsions characteristic of the transition from the imperialist domination to complete independence.

As a result of this provision the I.C.S. Officers have come to acquire a stranglehold over the administration. This has helped perpetuate snobbery and caste in Government services, glaring inequalities and a built-in resistance to innovation and change. Like the princely privileges and privy purses, the entrenched position of the I.C.S. Officers is also not in consonance with the spirit of the times and so needs to be done away with in the interests of modernisation, equality and social justice.

This Bill, which provides for the deletion of this constitutional guarantee to this privileged class, is being reintroduced because of the defeat of the original Bill owing to absenteeism on a large-scale despite commitment by most of the political parties represented in Parliament.

MADHU LIMAYE.

NEW DELHI;

The 29th April, 1970.

BILL NO. 76 OF 1970

A Bill to provide for the abolition of the Legislative Council of the State of Uttar Pradesh and for matters supplemental, incidental and consequential thereto.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Uttar Pradesh Legislative Council (Abolition) Act, 1970.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means, as respects a law relating to a matter enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the State Government;

(*b*) "article" means an article of the Constitution;

(*c*) "Council" means the Legislative Council of the State of Uttar Pradesh;

(*d*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law in the whole or any part of the State of Uttar Pradesh;

(*e*) "Legislative Assembly" means the Legislative Assembly of the State of Uttar Pradesh.

Abolition of the Council.

3. (*1*) The Legislative Council of the State of Uttar Pradesh is hereby abolished.

(*2*) On the abolition of the Council, every member thereof shall cease to be such member.

Amendment of article 168.

4. In sub-clause (*a*) of clause (*1*) of article 168 of the Constitution, for the words "Mysore and Uttar Pradesh", the words "and Mysore" shall be substituted.

Amendment of Act 43 of 1950.

43 of 1950.

5. In the Representation of the People Act, 1950,—

(*a*) In the Third Schedule, entry No. 8 relating to Uttar Pradesh shall be omitted;

(*b*) In the Fourth Schedule, the heading "Uttar Pradesh" and the entries thereunder shall be omitted.

Repeal of Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951.

6. The Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951, is hereby repealed.

Provision as to pending Bills.

7. (*1*) A Bill pending in the Council immediately before the commencement of this Act which has not been passed by the Legislative Assembly shall lapse on the abolition of the Council.

(*2*) A Bill pending in the Council immediately before the commencement of this Act which has been passed by the Legislative Assembly shall not lapse on the abolition of the Council, but on such abolition shall be deemed to have been passed before such commencement by both Houses of the Legislature of the State of Uttar Pradesh in the form in which it was passed by the Legislative Assembly.

(*3*) If a Bill which having been passed by the Legislative Assembly is, before the commencement of this Act, either rejected by the Council or passed by the Council with amendments, the Legislative Assembly may, after such commencement, pass the Bill again with or without such amendments, if any, as have been made by the Council and the Bill so passed shall be deemed to be a Bill introduced in and passed by the Legislative Assembly after the commencement of this Act.

Power to adapt laws.

8. The appropriate Government may, before the expiration of one year from the commencement of this Act, by order make such adaptations and modifications of any law made before such commencement whether by way of repeal or amendment as may be necessary or expedient in conse-

quence of the abolition of the Council under section 3, and thereupon every such law shall have effect subject to the adaptations and modifications so made.

Power to construe laws.

9. Notwithstanding that no provision or insufficient provision has been made under section 8 for the adaptation or modification of a law made before the commencement of this Act, any court, tribunal or authority required or empowered to enforce such law may construe the law in such manner, without affecting the substance, as may be necessary or proper on account of the abolition of the Council, in regard to the matter before the court, tribunal or authority.

STATEMENT OF OBJECTS AND REASONS

The Legislative Assembly of Uttar Pradesh passed a resolution at its meeting on 29th April, 1970 recommending the abolition of the Legislative Council of the State. This Bill seeks to give effect to this resolution as provided for in article 169 of the Constitution.

NEW DELHI;
The 30th April, 1970.

GEORGE FERNANDES.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make such adaptations and modifications of any law made before the commencement of the Act as may be necessary or expedient in consequence of the abolition of the Legislative Council of the State of Uttar Pradesh under clause 3. This power will be available only for a period of one year from the commencement of the Act. The adaptations and modifications cannot affect the substance of the laws adapted.

The delegation of legislative power is of a normal character.

BILL No. 65 OF 1970

A Bill further to amend the Payment of Bonus Act, 1965.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Payment of Bonus (Amendment) Act, 1970.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 10.

21 or 1965.

2. In the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in section 10,—

(*a*) for the words "four per cent. of the salary or wage earned by the employee during the accounting year or forty rupees, whichever is higher," the words "one-twelfth of the total emoluments paid to the employee during the accounting year" shall be substituted; and

(*b*) the proviso shall be omitted.

Omission of section 11.

3. Section 11 of the principal Act shall be omitted.

Amendment of section 12.

4. In section 12 of the principal Act, the words "or, as the case may be, under section 11," shall be omitted.

Amendment of section 13.

5. In section 13 of the principal Act, the words "of forty rupees or, as the case may be, of twenty five rupees, if such bonus is higher than four per cent. of his salary or wage for the days he has worked in that accounting year," shall be omitted.

Omission of section 15.

6. Section 15 of the principal Act shall be omitted

Substitution of new section for section 20.

7. For section 20 of the principal Act, the following section shall be substituted, namely:—

Application of Act to establishments in public sector.

"20. Save as otherwise expressly provided, the provisions of this Act shall apply to all establishments in public sector.".

Amendment of section 32.

8. In section 32 of the principal Act, clause (*x*) shall be omitted.

Omission of the Fourth Schedule.

9. In the principal Act, the Fourth Schedule shall be omitted.

BILL No. 64 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. In the First Schedule to the Constitution,— Amendment of First Schedule.

(*i*) (*a*) under the heading "I. THE STATES", after entry 3, the following entry shall be inserted, namely:—

"4. Delhi—The territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's province of Delhi."

(*b*) entries 4 to 17 shall be re-numbered as entries 5 to 18 respectively.

(*ii*) Under the heading "II. THE UNION TERRITORIES", entry 1 relating to Delhi shall be omitted.

STATEMENT OF OBJECTS AND REASONS

For a pretty long time, the people of Delhi have been agitating for a full Statehood for Delhi. Even the present new set-up has not fulfilled the aspirations of residents of Delhi. On the other hand, this has created problems which have hindered the development of this Union territory.

The Bill seeks to provide for a full-fledged Statehood for Delhi in consonance with the wishes and desires of the residents of this metropolitan city. All the political parties are in favour of a full Statehood for Delhi.

NEW DELHI;

The 9th June, 1970

KANWAR LAL GUPTA.

BILL No. 66 OF 1970

A Bill further to amend the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966

BE it enacted by Parliament in the Twenty-first year of the Republic of India as follows:—

Short title.

1. This Act may be called the Post-Graduate Institute of Medical Education and Research, Chandigarh (Amendment) Act, 1970.

Amendment of section 3.

2. In section 3 of the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 (hereinafter referred to as the principal Act), clause (b) shall be omitted.

51 of 1966.

Amendment of section 5.

3. In section 5 of the principal Act,—

(*i*) after clause (*c*), the following shall be inserted, namely:—

"(*cc*) the Chief Commissioner, Union territory of Chandigarh;

(*ccc*) the Chief Secretary to the Government of Punjab;

(cccc) the Chief Secretary to the Government of Haryana;

(ccccc) the Dean of the Institute;", and

(*ii*) after clause (*g*), the following new clause shall be added, namely:—

"(*h*) one professor of the Institute nominated annually by the Institute".

Amendment of Section 7.

4. For sub-section (*1*) of section 7 of the principal Act, the following shall be substituted, namely:—

"(*1*) The Union Health Minister shall be *ex-officio* Honorary President of the Institute and the Director its working President."

Amendment of Section10.

5. In section 10 of the principal Act,—

(*i*) sub-sections (*1*), (*2*), (*3*) and (*4*) shall be omitted, and sub-sections (*5*) and (*6*) shall be re-numbered as sub-sections (*1*) and (*2*) respectively;

(*ii*) for sub-section (*2*) as so re-numbered, the following shall be substituted, namely:—

"(*2*) The Chairman and members of a standing committee or an *ad-hoc* committee shall receive such allowances, if any, as may be prescribed by regulations." and

(*iii*) for the marginal heading, the following shall be substituted, namely:—

"Committees of the Institute".

Insertion of new Section 10 A.

6. After section 10 of the principal Act, the following section shall be inserted, namely:—

Visitor of the Institute.

"10A. (*1*) The President of India shall be the Visitor of the Institute.

(*2*) The Visitor may appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(*3*) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply such directions."

Amendment of Section 11.

7. In section 11 of the principal Act,—

(*i*) for sub-section (*2*), the following shall be substituted, namely:—

"(*2*) The Dean of the Institute shall act as its Secretary.", and

(*ii*) in sub-section (*3*), the words "or by the Governing Body or the Chairman of the Governing Body" shall be omitted.

Amendment of Section 22.

8. In section 22 of the principal Act, the words "Governing Body" wherever they occur shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Payment of Bonus Act, 1965 was expected to put an end to the innumerable disputes that cropped up every year over the quantum of bonus payable to workers in the country. Experience of the last five years, however, had shown that the Act has not lived up to its expectations. While there is dissatisfaction among those who are entitled to the minimum bonus of four per cent., the maximum ceiling of twenty per cent. of the salary or wage has created discontent among those who were getting a larger quantum of bonus before the enactment of the Payment of Bonus Act. Besides, the Act does not cover workmen in the public sector, which is a highly unwarranted discrimination. The amending Bill seeks to remove these shortcomings and make the law serve its purpose.

NEW DELHI; GEORGE FERNANDES.

The 2nd June, 1970.

BILL No. 63 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. After article 24 of the Constitution, the following new article shall be inserted, namely:— Insertion of new article 24A.

"24A. (1) The State shall provide employment to every adult citizen who is in need of employment. Right of Employment.

(2) While providing employment, due regard shall be had to the education, vocational training, state of health and aptitude of the individual.

(3) Where it is not possible to provide employment immediately to a citizen referred to in clause (1), the State shall pay to such person suitable monthly compensatory allowance."

STATEMENT OF OBJECTS AND REASONS

In a welfare State, it becomes the fundamental duty of State to provide employment to all citizens who are in need of employment. Article 41 of the Constitution provides that the State shall make effective provision for securing the right to work. Being a Directive Principle, this article has not achieved the desired purpose. The number of unemployed persons is ever increasing. To meet this challenge, it becomes the duty of the State to provide employment or in the alternative to give suitable compensatory allowance to all unemployed persons.

The Bill seeks to achieve this purpose.

NEW DELHI;
The 9th June, 1970.

KANWAR LAL GUPTA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the State shall provide employment to all adult citizens who are in need of employment and in case employment cannot be provided, the State shall pay to such unemployed persons suitable compensatory allowance. It is not possible to give the exact estimate of the amount of recurring expenditure but a sum not exceeding 20 crores of rupees is likely to be spent from the Consolidated Fund of India annually in respect of the Union territories.

The Bill will not involve any non-recurring expenditure.

Amendment of section 32.

9. In sub-section (*1*) of section 32 of the principal Act,—

(*i*) after the words "The Institute may", the words ", with the previous approval of the Central Government," shall be omitted;

(*ii*) for clause (*b*), the following shall be substituted, namely:—

"(*b*) the manner of constituting the standing and *ad-hoc* committees, the term of office of, and manner of filling vacancies among, the members of, the standing and *ad-hoc* committees;";

(*iii*) in clause (*c*), the words "and the Chairman of the Governing Body", shall be omitted;

(*iv*) for clause (*d*), the following shall be substituted, namely:—

"(*d*) the allowances, if any to be paid to the Chairman and members of standing and *ad-hoc* committees".

(*v*) in clause (e), the words "Governing Body and" shall be omitted;

(*vi*) clause (*g*) shall be omitted;

STATEMENT OF OBJECTS AND REASONS

The Post-Graduate Institute of Medical Education and Research has been established at Chandigarh for promoting further the interests of medical education and research work. The Director of the Institute is to face in his day to day administrative work, problems similar to the ones experienced by Vice-Chancellors of various Universities in the country. The status envisaged for him in the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 does not enable the Director of the Institute to exercise powers similar to the ones exercised by the Vice-Chancellors under the various enactments relating to their respective Universities. By the present amendment, it is contemplated to make the position of the Director analogous to that of the Vice-Chancellor so that he can exercise an effective control over the functioning of the Institute.

2. To avoid delay and duplication of reconsideration of the same decisions by the Governing Body and the Institute Body, it has been decided to do away with the Governing Body and to confer its powers and functions on the Director of the Institute so that in the light of factual position available to him on the spot, he may be able to take effective decisions expeditiously.

3. The superintendence and control of the Central Government over the Institute has been kept intact by investing the Health Minister with the status analogous to that of Chancellor of the University and appointing the President of India as a Visitor of the Institute so that he could review the work and progress of the Institute and hold enquiries into the affairs thereof through his nominee. The Visitor shall also be competent to issue such directions as he considers necessary in respect of any matter dealt with in the report of his nominee and the Institute shall be bound to comply with such directions.

Hence this Bill.

NEW DELHI;
The 12th June, 1970.

SHRI CHAND GOYAL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Central Government has under section 31 of the principal Act power to make rules in respect of matters specified therein. The power to make regulations envisaged in section 32 of the aforesaid Act, has been delegated to the Institute Body. The necessity of obtaining formal previous approval of the Central Government for making such regulations is proposed to be done away with so that the Institute Body may be able to draw up its regulations expeditiously and the long drawn process of obtaining formal approval of the Central Government in this behalf may be avoided. The delegation of powers is of a normal character.

BILL NO. 69 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1970. Short title and commencement.

(2) It shall come into force at once.

2. In article 16 of the Constitution, the following new clauses shall be inserted, namely:— Amendment of article 16.

"(6) Every citizen of the age of eighteen years or above shall have the right to work, that is, the right to receive guaranteed work

with payment for labour in accordance with its quality and quantity subject to a basic minimum or maximum wage established by law.

(7) So long as a citizen is unable to secure work the State shall provide monetary assistance to him."

STATEMENT OF OBJECTS AND REASONS

The problem of unemployment is assuming serious proportions in the country, where the number of unemployed has risen to over two crores of people. The unemployed youth of the country is getting frustrated and resorting to violent activities. In a civilized country it becomes the duty of the State to provide employment to all able-bodied persons.

Hence time has come when right to work and employment should be included in the fundamental rights so that it becomes justiciable.

SHRI CHAND GOYAL.

NEW DELHI;
The 26th June, 1970.

FINANCIAL MEMORANDUM

The Bill provides for payment of monetary assistance to persons who do not have employment. This would involve recurring expenditure of about fifty lakh rupees from the Consolidated Fund of India in respect of Union territories. No non-recurring expenditure is likely to be involved. Expenditure in respect of the States will be met by the State Governments.

BILL NO. 71 OF 1970

A Bill to provide for the fixation of ceiling on profits of certain business houses, concerns, undertakings etc.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Ceiling on Profits Act, 1970.

Ceiling on Profits.

2. No business house, manufacturing concern or factory or company or undertaking (whether a Public Sector or Private Sector Undertaking) whose turnover of goods sold, produced or manufactured exceeds one crore of rupees per annum, shall charge a profit exceeding twenty per cent. of the cost price of goods or the cost of production or manufacture of goods.

Penalty.

3. Any business house, concern or factory or undertaking which contravenes the provisions of this Act shall be liable to a penalty which shall not be less than twenty times the amount of the profit in excess of the twenty per cent referred to in section 2 and with rigorous imprisonment upto three years.

STATEMENT OF OBJECTS AND REASONS

At present there is no uniform law which imposes a ceiling on the profits charged by business houses, manufacturing concerns and undertakings. Sometimes the profits charged are too much out of proportion *vis-a-vis* the cost price or the cost of production or manufacture of goods. This Bill seeks to impose a ceiling on the profits of big business houses whose turnover exceeds one crore rupees per annum. This is an endeavour to bridge the gap between the rich and poor and it will help in providing the commodities of daily use at a reasonable rate.

KANWAR LAL GUPTA.

NEW DELHI;
The 29th June, 1970.

BILL No. 57 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title

1. This Act may be called the Constitution (Amendment) Act, 1970.

Amendment of article 366.

2. In article 366 of the Constitution, for clause (2), the following clause shall be substituted, namely:—

"(2) 'an Anglo-Indian' means a person one of whose parents or any of whose other male or female progenitors is or was of European desent but who is domiciled within the territory of India and is or was born of parents habitually resident therein and not established there for temporary purposes only.'

STATEMENT OF OBJECTS AND REASONS

Formerly in majority of mixed marriages, the grooms used to be European and brides Indian. Now, the trend has changed and in the majority of such marriages, the grooms are Indians and the brides come from Europe or are daughters of Anglo Indians. It will be unfair and invidious to give a certain status to the progeny of Europeans through male descent only. This amendment seeks to give similar status to the progeny of Europeans through the female descent also.

NEW DELHI;
The 28th April, 1970.

MRITYUNJAY PRASAD.

BILL No. 62 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. In the Seventh Schedule to the Constitution,— Amendment of the Seventh Schedule.

(*i*) in List II—State List, entry 1 shall be omitted; and

(*ii*) in List III—Concurrent List, entry 1 shall be re-numbered as entry 1A and before entry 1A as so re-numbered, the following new entry shall be inserted, namely:—

"1. Public order (but not including the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power)."

STATEMENT OF OBJECTS AND REASONS

Law and order have failed in certain States, particularly in West Bengal, and the Central Government could not do anything to restore law and order. It has been found necessary to arm the Central Government with powers to help restore law and order, without reducing the powers and the responsibility of the State Government in the administration of law and order.

Hence this Bill.

MRITYUNJAY PRASAD.

The 28th April, 1970.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to make public order a concurrent subject. In this connection recurring expenditure of about fifty lakh rupees is likely to be involved from the Consolidated Fund of India as the Central Government will have to strengthen their executive and police organisation etc.

No non-recurring expenditure is likely to be involved.

S. L. SHAKDHER,

Secretary.

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